

**STATE OF MICHIGAN**  
**DEPARTMENT OF ENERGY, LABOR AND ECONOMIC GROWTH**  
**OFFICE OF FINANCIAL AND INSURANCE REGULATION**  
**Before the Commissioner of Financial and Insurance Regulation**

**Office of Financial and Insurance Regulation,  
Petitioner**

**V**

**Case No. 08-5579**

**Jonathan Wendell Clark,  
Respondent**

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**For the Petitioner:**

**Marlon F. Roberts  
Office of Financial & Insurance Regulation  
P.O. Box 30220  
Lansing, MI 48909**

**For the Respondent:**

**Jonathan Wendell Clark**  


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**Issued and entered  
this 28th day of April 2009  
by Ken Ross  
Commissioner**

**ORDER DENYING  
MOTION TO RESCIND FINAL DECISION**

On April 21, 2009, the staff of the Office of Financial and Insurance Regulation filed a Motion to Rescind Final Decision in the above-captioned case. The Final Decision in this case was issued on September 9, 2008 and ordered the revocation of Respondent Clark's resident insurance producer license. The Final Decision was issued after Respondent Clark had failed to appear at hearing to contest the staff's allegation that he had been "convicted of the felony of criminal sexual conduct, 4<sup>th</sup> degree (force or coercion) in 2001." The allegation had been stated in a written complaint issued May 22, 2008.

The staff now asserts in its present motion that, while Respondent had at one time been charged with three felony counts of criminal sexual conduct and one misdemeanor count, the felony charges were dismissed and Respondent had been convicted of the single misdemeanor charge. Only felony convictions automatically disqualify an individual from holding a producer license. Although it does not state so explicitly, the Staff seems to be arguing that the Respondent would be eligible to hold an insurance producer license if he had only been convicted of a misdemeanor. It is not clear why Respondent did not appear at hearing to contest the allegation that he had been convicted of a felony.

The Staff's motion must be denied for several reasons. It appears that the Staff's present motion is based solely on oral communication with the Respondent, who has not filed any written material himself in connection with this motion. Staff attached to its motion two Macomb County Circuit Court forms regarding Respondent's conviction: a sentence disposition form and discharge from probation. These forms appear to have been faxed to Staff by Respondent in March 2006, perhaps in connection with Respondent's original license application. Even at this late date, the Respondent himself has not made any filing or submission requesting that his license be reinstated.

The Commissioner notes that Staff's motion lists Respondent Clark's address as [REDACTED]  
[REDACTED] The OFIR files for the September 2008 hearing also list this as Respondent's address. Those files reveal that Respondent failed to accept mail at that address in June, August, and September 2008 when the Staff mailed to Respondent the Complaint and Notice of Hearing and Motion for Summary Decision. Thus, it is not clear whether, even now,

OFIR has a valid current address for Respondent. Maintaining a current address with OFIR is a basic statutory requirement for licensure as an insurance producer in Michigan. See section 1238(1) of the Michigan Insurance Code, MCL 500.1238(1).

The Respondent's insurance producer license was revoked on September 9, 2008, more than seven months ago. An insurance producer whose license has been inactive must submit a new application in order to reactivate the license. See section 1206 of the Insurance Code, MCL 500.1206. This requirement allows the Commissioner to be assured that no license-disqualifying event has occurred since a license became inactive. There is no similar reinstatement provision for revoked licenses, but even if the Commissioner was in a position to exercise such discretion, it would be unwise to do so without first collecting the information required on an application form in order to ensure that Respondent has, in the past seven months, not engaged in any other conduct which might disqualify him from receiving a license. Granting the Staff's present motion would give Respondent a producer license without any assurance that Respondent has maintained the standards for licensure over the past seven months that he was unlicensed.

Finally, all insurance producers must meet regular continuing education requirements. No producer may maintain an active license without satisfying current continuing education requirements. No evidence has been submitted that Respondent's continuing education is current and meets the requirements for active licensure.

The Commissioner concludes that it would be inappropriate under these circumstances to reinstate Respondent's insurance producer license.

**ORDER**

The motion to rescind the September 9, 2008 Final Decision is denied.

A handwritten signature in black ink, appearing to be 'KR' followed by a horizontal line.

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Ken Ross  
Commissioner